

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BRENDAN PICHA and MAX J. HASTINGS,
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

GEMINI TRUST COMPANY, LLC, TYLER
WINKLEVOSS and CAMERON
WINKLEVOSS,

Defendants.

No.: 1:22-cv-10922-NRB

Hon. Naomi Reice Buchwald

**CERTIFICATION OF BRENDAN PICHA
IN SUPPORT OF LEAD PLAINTIFF MOTION**

I, Brendan Picha, hereby certify under penalty of perjury that the following is true and correct to the best of my knowledge, information, and belief:

1. I have reviewed the complaint filed in this action and authorize the filing of a lead plaintiff motion on my behalf.

2. I did not invest in the Gemini Earn program at issue in this action at the direction of my counsel, nor in order to participate in any private action arising under the Securities Act of 1933 (the “Securities Act”) or the Securities Exchange Act of 1934 (the “Exchange Act”).

3. I am willing to serve as a representative party on behalf of a class, including providing testimony at a deposition and trial, if necessary.

4. My principal goal in jointly filing with other individuals for lead plaintiff is to achieve the best possible recovery for the class from all culpable parties. I agree to engage in the use of collective resources and to engage in joint decision-making to materially benefit and advance the interests of the class in this case.

5. I began investing in the Gemini Earn program in or around February 2021. To the best of my knowledge, the attached **Appendix A** lists my transactions in connection with the program, which demonstrates the extent of my losses.

6. During the three-year period preceding the date of this Certification, I have not sought to serve as a representative party on behalf of a class in any private action arising under the Securities Act or the Exchange Act.

7. I will not accept any payment for serving as a representative party on behalf of the class beyond my pro rata share of any possible recovery, except for an award, as ordered by the Court, for reasonable costs and expenses (including lost wages) directly relating to my representation of the class.

8. On or about November 21, 2022, I joined a group chat via the instant messaging service Telegram (the “Telegram Group”) to discuss the issues faced by investors in the Gemini Earn program (“Earn Investors”) after Gemini froze all Earn accounts on November 16, 2022. Max Hastings is the founder and owner of the Telegram Group, and both Mr. Hastings and myself are administrators for the group. As demonstrated by my moderation of the Telegram Group, I have been taking an active leadership role in looking out for the interests of Earn Investors.

9. To date, more than 250 people have joined the Telegram Group and we have created a supportive community. We describe the Telegram Group as “representing a collaboration of Earn users and Genesis creditors negatively impacted by frozen withdrawals.” In building this community, I have had multiple conversations with members of the proposed class, including the other individuals jointly filing this motion with me.

10. Mr. Hastings and I actively sought counsel to represent the interests of Earn Investors in pursuing claims against the defendants for the harm they caused, and after considering

several law firms, we selected Kim & Serritella LLP (“K&S”). I understand that three additional individuals would like to serve as lead plaintiffs in this action. I have met each of them on video calls and welcome serving with them as a group of lead plaintiffs. Since selecting K&S, I have attended several video conferences, along with the other lead plaintiffs, to discuss strategy with K&S and next steps. I understand the seriousness of our role, and I believe that under the circumstances, the proposed class would benefit from a small lead plaintiff group over a single individual lead plaintiff. The Earn Investors have been extremely vocal on various social media platforms, including on the Telegram Group, due to the real harm that people have incurred. I believe that the pressure to make the correct decisions resting solely on one person could be difficult and Earn Investors would benefit from a small group making them collectively.

11. I have had multiple videos calls with K&S and have been actively engaged in decision-making in the case, including in connection with the pre-suit investigation, the filing of the complaint, the response to the defendants’ attempt to move to compel arbitration and strategy in connection with Genesis’ recent bankruptcy filing. I have also had multiple videos calls with the other lead individuals joining this motion (the “Lead Plaintiff Group”).

12. The Lead Plaintiff Group is comprised of intelligent individuals who are committed to achieving the best outcome for the class and I am confident we will all work well together. I do not anticipate any major or unresolvable disagreements between myself and the Lead Plaintiff Group and I intend to make all efforts, in good faith, to reach consensus with respect to all litigation decisions to fulfill my obligations to the class, including when necessary, consulting with K&S. However, should there be a failure to reach a consensus, the Lead Plaintiff Group has agreed to implement a protocol for resolving any disagreements, including through a simple majority vote.

This process will allow us to act efficiently on matters relating to the well-being of the class while remaining in keeping with the self-organized and democratic origins of our suit.

Dated: 02 / 25 / 2023

A handwritten signature in cursive script, reading "Brendan Picha".

Brendan Picha

APPENDIX A – PICHA CERTIFICATION***CURVE DAO TOKEN**

Gemini Earn Transactions			
Date	Time	Transaction	Token Amount
9/22/2021	3:18:30 PM	Investment	861.036168
9/30/2021	8:00:00 PM	Monthly Interest Summary	0.330315874
10/13/2021	8:00:00 PM	Monthly Interest Summary	0.537033582
10/14/2021	1:40:57 PM	Redemption	861.9
4/20/2022	12:32:48 AM	Investment	365.989973
4/21/2022	12:48:29 PM	Investment	10.20425
4/30/2022	8:00:00 PM	Monthly Interest Summary	0.796331562
5/10/2022	12:30:25 PM	Investment	14.586415
5/24/2022	1:11:28 PM	Investment	24.443189
5/31/2022	8:00:00 PM	Monthly Interest Summary	2.587520847
6/6/2022	3:31:14 PM	Investment	14.140565
6/30/2022	8:00:00 PM	Monthly Interest Summary	2.743379033
7/8/2022	6:43:09 PM	Investment	94.44658346
7/31/2022	8:00:00 PM	Monthly Interest Summary	3.333632067
8/12/2022	1:43:09 PM	Investment	43.610989
8/31/2022	8:00:00 PM	Monthly Interest Summary	3.69278805
9/30/2022	8:00:00 PM	Monthly Interest Summary	3.704794291
10/31/2022	8:00:00 PM	Monthly Interest Summary	3.118476173
9/22/2021	3:18:30 PM	Investment	861.036168
CURVE DAO TOKEN		Remaining Earn Balance = 587.4024	
		Realized Losses = \$610.90	

BASIC ATTENTION TOKEN

Gemini Earn Transactions			
Date	Time	Transaction	Token Amount
3/26/2021	11:35:34 PM	Redemption	5.7048226
3/31/2021	8:00:00 PM	Monthly Interest Summary	0.004822607
4/30/2021	8:00:00 PM	Monthly Interest Summary	0.000000000019794087
5/31/2021	8:00:00 PM	Monthly Interest Summary	0.000000000020512590
6/30/2021	8:00:00 PM	Monthly Interest Summary	0.000000000019907870
7/31/2021	8:00:00 PM	Monthly Interest Summary	0.000000000020630523
8/31/2021	8:00:00 PM	Monthly Interest Summary	0.000000000020690707
9/30/2021	8:00:00 PM	Monthly Interest Summary	0.000000000020080734
10/31/2021	8:00:00 PM	Monthly Interest Summary	0.000000000020809648
11/30/2021	9:00:00 PM	Monthly Interest Summary	0.000000000020196169
12/31/2021	9:00:00 PM	Monthly Interest Summary	0.000000000010548789
1/31/2022	9:00:00 PM	Monthly Interest Summary	0.000000000010564300
2/28/2022	9:00:00 PM	Monthly Interest Summary	0.000000000005521803
3/31/2022	8:00:00 PM	Monthly Interest Summary	0.000000000006118367
4/30/2022	8:00:00 PM	Monthly Interest Summary	0.000000000005925950
5/31/2022	8:00:00 PM	Monthly Interest Summary	0.000000000006128601
6/30/2022	8:00:00 PM	Monthly Interest Summary	0.000000000005935862
7/31/2022	8:00:00 PM	Monthly Interest Summary	0.000000000006138852
8/31/2022	8:00:00 PM	Monthly Interest Summary	0.000000000006144068
9/12/2022	1:36:17 PM	Investment	29.22286049

9/30/2022	8:00:00 PM	Monthly Interest Summary	0.01441463
10/29/2022	12:43:58 PM	Investment	4.75
10/31/2022	8:00:00 PM	Monthly Interest Summary	0.024841866
11/18/2022	3:25:25 PM	Redemption	34.02611591
BASIC ATTENTION TOKEN		Remaining Earn Balance = 34.02611591	
		Realized Losses = \$10.54	

GEMINI DOLLAR

Gemini Earn Transactions			
Date	Time	Transaction	Token Amount
7/21/2021	6:52:12 PM	Investment	275
7/31/2021	8:00:00 PM	Monthly Interest Summary	0.54
8/31/2021	8:00:00 PM	Monthly Interest Summary	1.68
9/2/2021	3:58:16 PM	Investment	25,000.00
9/8/2021	5:36:43 PM	Redemption	2,500.00
9/30/2021	8:00:00 PM	Monthly Interest Summary	138.41
10/24/2021	12:18:54 AM	Investment	10,000.00
10/31/2021	8:00:00 PM	Monthly Interest Summary	163.85
11/20/2021	3:49:33 PM	Investment	4,911.88
11/30/2021	9:00:00 PM	Monthly Interest Summary	219.22
11/30/2021	2:34:10 PM	Redemption	1,000.00
12/31/2021	9:00:00 PM	Monthly Interest Summary	245.39

1/29/2022	5:58:23 PM	Investment	3,446.94
1/31/2022	9:00:00 PM	Monthly Interest Summary	247.01
2/2/2022	6:28:12 PM	Investment	1,308.00
2/9/2022	6:14:26 PM	Investment	1,308.00
2/16/2022	6:28:10 PM	Investment	1,308.00
2/23/2022	6:34:43 PM	Investment	1,308.00
2/28/2022	9:00:00 PM	Monthly Interest Summary	262.26
3/2/2022	6:20:53 PM	Investment	1,308.00
3/9/2022	6:31:20 PM	Investment	1,308.00
3/16/2022	6:09:28 PM	Investment	1,308.00
3/21/2022	11:59:49 AM	Investment	10,000.00
3/23/2022	6:16:34 PM	Investment	1,308.00
3/30/2022	6:21:33 PM	Investment	1,308.00
3/31/2022	8:00:00 PM	Monthly Interest Summary	349.68
4/6/2022	9:15:48 PM	Investment	700
4/11/2022	8:47:53 PM	Investment	657.4
4/13/2022	9:21:57 PM	Investment	700
4/20/2022	9:09:15 PM	Investment	700
4/27/2022	9:17:14 PM	Investment	700
4/30/2022	8:00:00 PM	Monthly Interest Summary	357.8
5/4/2022	9:07:59 PM	Investment	700
5/11/2022	9:19:47 PM	Investment	700
5/18/2022	9:30:31 PM	Investment	700
5/25/2022	9:02:43 PM	Investment	700
5/31/2022	8:00:00 PM	Monthly Interest Summary	390.52
6/1/2022	9:27:25 PM	Investment	700
6/8/2022	9:16:37 PM	Investment	700

6/15/2022	9:28:43 PM	Investment	700
6/20/2022	11:05:59 PM	Redemption	1,600.00
6/22/2022	9:17:15 PM	Investment	700
6/29/2022	9:08:52 PM	Investment	700
6/30/2022	8:00:00 PM	Monthly Interest Summary	393.78
7/6/2022	9:31:53 PM	Investment	700
7/13/2022	9:17:01 PM	Investment	700
7/20/2022	9:22:47 PM	Investment	700
7/27/2022	9:29:27 PM	Investment	700
7/31/2022	8:00:00 PM	Monthly Interest Summary	427.58
8/3/2022	9:15:49 PM	Investment	700
8/10/2022	9:31:51 PM	Investment	700
8/17/2022	9:34:24 PM	Investment	700
8/24/2022	9:26:05 PM	Investment	700
8/31/2022	9:09:24 PM	Investment	700
8/31/2022	8:00:00 PM	Monthly Interest Summary	456.42
9/7/2022	9:09:31 PM	Investment	700
9/14/2022	12:08:50 PM	Investment	3,000.00
9/14/2022	9:28:59 PM	Investment	700
9/21/2022	9:13:31 PM	Investment	700
9/28/2022	9:13:40 PM	Investment	700
9/30/2022	8:00:00 PM	Monthly Interest Summary	470.78
10/5/2022	9:36:01 PM	Investment	700
10/12/2022	9:30:12 PM	Investment	700
10/19/2022	9:14:36 PM	Investment	700
10/26/2022	9:23:20 PM	Investment	700
10/31/2022	8:00:00 PM	Monthly Interest Summary	439.82

11/2/2022	9:29:37 PM	Investment	700
11/9/2022	9:13:26 PM	Investment	700
GEMIMI DOLLAR		Remaining Earn Balance = 90,927.96	
		Realized Losses = \$90,927.96	

POLYGON

Gemini Earn Transactions			
Date	Time	Transaction	Token Amount
6/14/2021	3:57:39 PM	Investment	571.215
6/30/2021	8:00:00 PM	Monthly Interest Summary	0.375709115271335
7/24/2021	1:14:42 PM	Investment	1056.28
7/31/2021	8:00:00 PM	Monthly Interest Summary	0.945702051513152
8/31/2021	8:00:00 PM	Monthly Interest Summary	2.076350656717940
9/1/2021	7:26:04 PM	Investment	330.155
9/9/2021	8:00:00 PM	Monthly Interest Summary	0.711866657570732
9/9/2021	10:57:15 PM	Redemption	1961.761885
7/27/2022	1:09:10 PM	Investment	58.9362
7/31/2022	8:00:00 PM	Monthly Interest Summary	0.034174265115187
8/19/2022	2:02:27 PM	Investment	47.0798
8/31/2022	8:00:00 PM	Monthly Interest Summary	0.347468742160249
9/12/2022	12:36:14 PM	Investment	61.8088

9/30/2022	8:00:00 PM	Monthly Interest Summary	0.625028100583447
10/7/2022	12:04:46 PM	Investment	67.0674
10/31/2022	8:00:00 PM	Monthly Interest Summary	0.944661834106868
11/13/2022	3:14:24 PM	Investment	73.5121
11/18/2022	3:24:58 PM	Redemption	310.828201
POLYGON		Remaining Earn Balance = 310.3533764	
		Realized Losses = \$409.66	

FANTOM

Gemini Earn Transactions			
Date	Time	Transaction	Token Amount
9/22/2021	3:18:49 PM	Investment	1,473.64
9/30/2021	8:00:00 PM	Monthly Interest Summary	0.720421649223141
10/13/2021	8:00:00 PM	Monthly Interest Summary	1.171436419660830
10/14/2021	1:40:05 PM	Redemption	1475.533552
11/30/2021	2:36:45 PM	Investment	436.135
12/31/2021	9:00:00 PM	Monthly Interest Summary	0.826786765443118
1/1/2022	1:23:08 PM	Redemption	436.9626168
3/31/2022	8:00:00 PM	Monthly Interest Summary	0
4/30/2022	8:00:00 PM	Monthly Interest Summary	0
9/12/2022	1:35:59 PM	Investment	379.846
9/30/2022	8:00:00 PM	Monthly Interest Summary	0.236094592555683

10/31/2022	8:00:00 PM	Monthly Interest Summary	0.406951395802249
11/18/2022	3:25:14 PM	Redemption	380.6870748
FANTOM		Remaining Earn Balance = 380.6870748	
		Realized Losses = \$183.54	

DAI

Gemini Exchange Transactions			
Date	Time	Transaction	Token Amount
3/17/2021	4:01:46 PM	Investment	47.7
3/26/2021	11:35:17 PM	Redemption	47.77782293
3/31/2021	8:00:00 PM	Monthly Interest Summary	0.0840329354478832
4/30/2021	8:00:00 PM	Monthly Interest Summary	0.0000000000320617
5/31/2021	8:00:00 PM	Monthly Interest Summary	0.0000000000333287
6/30/2021	8:00:00 PM	Monthly Interest Summary	0.0000000000324465
7/31/2021	8:00:00 PM	Monthly Interest Summary	0.0000000000337287
8/31/2021	8:00:00 PM	Monthly Interest Summary	0.0000000000339339
9/30/2021	8:00:00 PM	Monthly Interest Summary	0.0000000000336853
10/31/2021	8:00:00 PM	Monthly Interest Summary	0.0000000000350206
11/30/2021	9:00:00 PM	Monthly Interest Summary	0.0000000000360238
12/31/2021	9:00:00 PM	Monthly Interest Summary	0.0000000000256004
1/31/2022	9:00:00 PM	Monthly Interest Summary	0.0000000000257150
2/28/2022	9:00:00 PM	Monthly Interest Summary	0.0000000000276368
3/31/2022	8:00:00 PM	Monthly Interest Summary	0.0000000000307523
4/30/2022	8:00:00 PM	Monthly Interest Summary	0.0000000000299156
5/31/2022	8:00:00 PM	Monthly Interest Summary	0.0000000000310741

6/30/2022	8:00:00 PM	Monthly Interest Summary	0.0000000000250749
7/31/2022	8:00:00 PM	Monthly Interest Summary	0.0000000000260229
8/31/2022	8:00:00 PM	Monthly Interest Summary	0.0000000000261374
9/30/2022	8:00:00 PM	Monthly Interest Summary	0.0000000000254037
10/31/2022	8:00:00 PM	Monthly Interest Summary	0.0000000000247175
11/18/2022	3:26:00 PM	Redemption	0.000000006028044586
DAI		Remaining Earn Balance = 0.000000006028044586	
		Realized Losses = \$0.000000006028044586	

TOTAL REALIZED LOSSES = \$92,142.60
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***All attempted redemptions on November 18, 2022 were not fulfilled by Gemini and therefore such attempted redemptions are not included in this schedule.**

***Losses are based on market value as of February 24, 2023.**